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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,913	04/02/2004	Gerry Oatway	04-01005	9309

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Bay Area Patent Group, LLC
13575 58TH ST. NORTH
SUITE 175
CLEARWATER, FL 33760

EXAMINER

RODRIGUEZ, RUTH C

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/815,913	Applicant(s) OATWAY, GERRY	
	Examiner Ruth C. Rodriguez	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-8, 10 and 11 is/are rejected.
- 7) ☒ Claim(s) 4, 9, 12 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The finality of that action is withdrawn. The Examiner regrets any inconvenience experience by the Applicant for the indication of allowable subject matter in claim 4.

The rejection of claim 4 follows.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hobbs (US 3,678,543).

A clamp comprises a link, a ring and a finger (located at 16). The link has two side members (4,6,7) connected at a first end by a cross member (13) and attached at the other end at an apex (2). The ring has a first end (19) and a second end (16) joined

together by two longitudinal side pieces (17,18). The ring is slidably engaged with the link (Figs. 2-4, 9 and 10). The link is positioned within the ring between the first and second ends so that the first and second ends slide along the two side members (Figs. 2-4, 9 and 10). The finger extends from one of the longitudinal side pieces of the ring in a direction towards the apex and terminating at an end (Figs. 2-4, 9 and 10). The finger is integrally made from the single piece of material. Hobbs fails to disclose that the finger is formed by bending a portion of the single piece of material inward towards the center of the ring and then making a second bent and then making a second bent in the portion of the single piece of material at 90 degrees thereto forming the finger, however, a comparison of the recited process with the prior art does NOT serve to resolve the issue concerning patentability of the product. In *re Fessman*, 489 F2d 742, 180 U.S.P.Q. 326 (CCPA 1974). Whether the product is patentable depends on whether it is known in the art or it is obvious and is not governed by whether the process by which it is made is patentable. In *re Klug*, 333 F2d 905 142 U.S.P.Q. 161 (CCPA 1964). In an *ex parte* case, product-by-process claim are not construed as being limited to the product formed by the specific process recited. In *re Hirao et al.* 535 F2d 67, 190 U.S.P.Q. 15, (CCPA 1976). In this case, the finger can be obtained from a single piece of material where both protrusions forming the finger are bent away from the center of the ring and the portion of the finger that is opposite to the apex is bent towards the center of the ring to be adjacent to the side members and the other portion of the finger that is bent towards the apex is also obtained by bending the other portion of the finger at 90 degrees thereto forming the finger.

Hobbs also discloses that the link is formed of a single piece of material that forms the two side members and the cross member and the free ends of the material are joined together to form the apex (Figs. 2-4, 9 and 10).

Allowable Subject Matter

4. Claims 6-9, 11, 12, 14 and 15 are allowed

Response to Arguments

5. Applicant's arguments filed 02 June 2006 have been fully considered but they are not persuasive.

6. The Applicant argues that claim 4 is allowable based on the prior indication of allowability of claim 4. However, upon detailed study of claim 4, the indication of allowable subject matter of claim 4 is withdrawn since claim 4 fails to indicate that the single piece of material is a wire material. Therefore, the ring can be obtained by the process indicated above for the rejection of claim 4 since only the method of making is being relied upon for making this claim patentable.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Leisner (US 977,642), Sova (US 2,441,336), Long (US 2,962,998), Hobbs (US 3,678,543), Wagner (US 4,019,609), Bowker (US 4,678,059) and Potter (US 5,217,092) are cited to show state of the art with respect to clamps securing a rope that have some of the features being claimed by the applicant.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C. Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

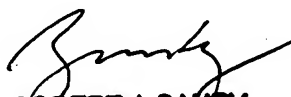
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Status information for unpublished applications is available through Private PAIR only.

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Ruth C. Rodriguez
Patent Examiner
Art Unit 3677

rcr
June 12, 2006



ROBERT J. SANDY
PRIMARY EXAMINER